

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

CHRISTOPHER J. MILLER,) Case No.: 1:20-cv-01117-AWI-SAB (PC)
Plaintiff,)
v.)
SERGEANT M. SOTO,) ORDER DENYING DEFENDANTS' REQUEST
Defendant.) TO SEAL DOCUMENTS, WITHOUT PREJUDICE
) (ECF No. 52)
)
)
)

Plaintiff Christopher Miller is proceeding *pro se* and *in forma pauperis* in this civil rights action pursuant to 42 U.S.C. § 1983.

Currently before the Court is Defendants' notice of request to seal documents pursuant to Local Rule 141. (ECF No. 52.) Although the time for Plaintiff to file an opposition has not passed, the Court deems the motion submitted as it must be denied as procedurally defective.

I.

LEGAL STANDARD

There is a presumption in favor of public access to court records. See Phillips ex rel. Estates of Byrd v. Gen. Motors Corp. (Phillips), 307 F.3d 1206, 1210 (9th Cir. 2002). However, “access to judicial records is not absolute.” Kamakana v. City & Cnty. of Honolulu, 447 F.3d 1172, 1178 (9th Cir. 2006). Two standards govern whether documents should be sealed: a “compelling reasons” standard, and a “good cause” standard. *Id.* at 1179; Pintos v. Pac. Creditors Ass’n, 605 F.3d 665, 677–78 (9th Cir.

1 2010). The “good cause” and “compelling reasons” standards should not be conflated; a “good cause”
 2 showing will not, without more, satisfy the “compelling reasons” test. Kamakana, 447 F.3d at 1180.

3 Generally, the compelling reasons standard is applied. See Ctr. for Auto Safety v. Chrysler Grp.,
 4 LLC (Auto Safety), 809 F.3d 1092, 1096–97 (9th Cir. 2016). Under the compelling reasons standard,
 5 the party seeking to have a document sealed must articulate compelling reasons supported by specific
 6 factual findings; it must identify the interests that favor secrecy; and it must show that these specific
 7 interests outweigh the general history of access and the public policies favoring disclosure, such as the
 8 public’s interest in understanding the judicial process. Kamakana, 447 F.3d at 1179–81. The Ninth
 9 Circuit has indicated that “‘compelling reasons’ sufficient to outweigh the public’s interest in disclosure
 10 and justify sealing court records exist when such ‘court files might have become a vehicle for improper
 11 purposes,’ such as the use of records to gratify private spite, promote public scandal, circulate libelous
 12 statements, or release trade secrets.’ ” Id. at 1179 (citing Nixon v. Warner Commc’ns Inc., 435 U.S.
 13 589, 597 & n.7 (1978)). “[S]ources of business information that might harm a litigant’s competitive
 14 strategy may also give rise to a compelling reason to seal,” as may pricing, profit, and customer usage
 15 information kept confidential by a company that could be used to the company’s competitive
 16 disadvantage. See Apple Inc. v. Samsung Elecs. Co., 727 F.3d 1214, 1221–22, 1225 (Fed. Cir. 2013)
 17 (quoting Nixon, 435 U.S. at 597–98). On the other hand, “[t]he mere fact that the production of records
 18 may lead to a litigant’s embarrassment, incrimination, or exposure to further litigation will not, without
 19 more, compel the court to seal its records.” Kamakana, 447 F.3d at 1179 (citing Foltz v. State Farm
 20 Mut. Auto. Ins. Co., 331 F.3d 1122, 1136 (9th Cir. 2003)). Nor is the fact that the parties have agreed
 21 to keep information confidential. See generally, Foltz, 331 F.3d 1122. Indeed, “[s]imply mentioning a
 22 general category of privilege, without any further elaboration or any specific linkage with the
 23 documents, does not satisfy the burden.” Kamakana, 447 F.3d at 1184. Rather, a party must “articulate
 24 compelling reasons supported by specific factual findings.” Id. at 1178 (citations omitted).

25 The “good cause” standard is an exception that the Ninth Circuit “carved out . . . for sealed
 26 materials attached to a discovery motion unrelated to the merits of a case” or documents only
 27 tangentially related to the underlying cause of action. Auto Safety, 809 F.3d at 1097; see also
 28 Kamakana, 447 F.3d at 1179–80 (a “particularized showing” under the “good cause” standard of Rule

1 26(c) will “suffice [] to warrant preserving the secrecy of sealed discovery material attached to non-
 2 dispositive motions.”). While it “presents a lower burden for the party wishing to seal documents than
 3 the ‘compelling reasons’ standard,” Pintos, 605 F.3d at 678, the party seeking protection nevertheless
 4 bears the burden of showing specific prejudice or harm will result, Phillips, 307 F.3d at 1210–11, and
 5 must make a “particularized showing of good cause with respect to any individual document,” San Jose
 6 Mercury News, Inc. v. U.S. Dist. Ct., 187 F.3d 1096, 1103 (9th Cir. 1999) (citations omitted). For
 7 example, a “particularized showing” that public disclosure would cause “annoyance, embarrassment,
 8 oppression, or an undue burden” will suffice to seal non-dispositive records. Fed. R. Civ. P. 26(c)(1);
 9 Kamakana, 447 F.3d at 1180. “Broad allegations of harm, unsubstantiated by specific examples or
 10 articulated reasoning,” however, are insufficient. Phillips, 307 F.3d at 1211 (quoting Beckman Indus.,
 11 Inc. v. Int’l Ins. Co., 966 F.2d 470, 476 (9th Cir. 1992)).

12 Additionally, Local Rule 141 provides that requests to seal shall set forth: (1) the statutory or
 13 other authority for sealing; (2) the requested duration; (3) the identity, by name or category, of persons
 14 to be permitted access to the documents; and (4) all other relevant information. E.D. Cal. L.R. 141(b).
 15 Finally, any request to seal documents must be “narrowly tailored” to remove from the public sphere
 16 only the material that warrants secrecy. See, e.g., Ervine v. Warden, 241 F. Supp. 3d 917, 919 (E.D.
 17 Cal. 2016) (citing Press-Enterprise Co. v. Superior Ct. of Cal., 464 U.S. 501 (1986)). To the extent
 18 any confidential information can be easily redacted while leaving meaningful information available to
 19 the public, the Court must order that redacted versions be filed rather than sealing entire documents.
 20 See Foltz, 331 F.3d at 1137; see also In re Roman Catholic Archbishop of Portland in Or., 661 F.3d
 21 417, 425 (9th Cir. 2011) (“a court must still consider whether redacting portions of the discovery
 22 material will nevertheless allow disclosure.”). “[I]f the court decides to seal certain judicial records, it
 23 must . . . articulate the factual basis for its ruling, without relying on hypothesis or conjecture.’ ”
 24 Kamakana, 447 F.3d at 1179 (quoting Hagestad v. Tragesser, 49 F.3d 1430, 1434 (9th Cir. 1995)); see
 25 also Apple Inc. v. Psystar Corp., 658 F.3d 1150, 1162 (9th Cir. 2011).

26 ///

27 ///

28 ///

II.

ANALYSIS

3 In their motion to seal, Defendants submit that the declarations of E. Guthery, B. Klein, and M.
4 Soto “contain information that would, if provided to the public or introduced to the prison
5 environment by the Plaintiff, pose a serious risk of disruption of the prison environment, increase the
6 risk of harm to the plaintiff, subvert penological investigative goals, and provide inmates house in
7 California Department of Corrections and Rehabilitation (CDCR) facilities with the information
8 necessary to subvert investigations and avoid detention by CDCR staff. (citations omitted). Further
9 the records contain private information related to CDCR inmates other than the plaintiff. Failure to
10 seal these records will violate these individuals’ privacy and confidentiality and risk harm to those
11 individuals.” (Mot. at 1-2.)

12 Plaintiff requests to seal three exhibits attached to declarations of E. Guthery, B. Klein, and M.
13 Soto which consist of (1) Rules Violation Report; (2) Memorandum for Appeal Log Number VSP-C-
14 19-01818; and (3) Memorandum marked Confidential regarding Plaintiff and another inmate. While
15 Defendants claim that these documents contain information that should be filed under seal, they fail to
16 make any “particularized showings” or provide any further elaboration with respect to each of the three
17 discrete exhibits. Kamakana, 447 F.3d at 1180. Nor have Defendants made a showing that some
18 specific harm or prejudice will result if the documents are not sealed. Beckman Indus., Inc., 966 F.2d
19 at 476; Phillips, 307 F.3d at 1211. Furthermore, Defendants do not demonstrate that the request to seal
20 is narrowly tailored, nor do they address whether redaction, rather than sealing, is appropriate. See
21 Foltz, 331 F.3d at 1137; Roman Catholic Archbishop of Portland, 661 F.3d at 425. For these reasons,
22 the Court denies Defendants’ request to seal these documents, without prejudice.

111

111

111

111

V.

CONCLUSION AND ORDER

1 Accordingly, IT IS HEREBY ORDERED that:

2 1. Defendants request to seal the exhibits attached to the declarations of E. Guthery, B.
3 Klein, and M. Soto, is DENIED without prejudice;¹ and
4 2. The Clerk of the Court shall RETURN the documents submitted in connection with
5 Defendants' request to seal pursuant to Local Rule 141(e)(1);

6
7 IT IS SO ORDERED.

8 Dated: June 15, 2022



9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES MAGISTRATE JUDGE

¹ The Court finds adjudication by a magistrate judge of this motion appropriate. See E.D. Cal. L.R. 302(c)(1) ("all stipulations and motions relating to protective orders and sealing documents submitted or filed for hearing before discovery cutoff."); see also, e.g., Ambriz v. CVS Pharmacy, Inc., No. 1:19-cv-01391-NONE-BAM, 2020 WL 4368364, at *1 (E.D. Cal. July 30, 2020) (denial by magistrate judge of joint request to seal).